UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,904	05/19/2004	Barbara A. Christensen	RA 5607 (33012/385/101)	6044

27516   7590   04/10/2007
UNISYS CORPORATION
MS 4773
PO BOX 64942
ST. PAUL, MN 55164-0942

EXAMINER
VY, HUNG T

ART UNIT	PAPER NUMBER
2163	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/848,904	CHRISTENSEN ET AL.
	Examiner	Art Unit	
	Hung T. Vy	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   As of entry of the amendment filed on 02/01/2007, claims 1-21 are pending in

this application. Applicant's arguments have been fully considered but they are not

persuasive (see response Applicant's arguments below).

Drawings

2.   The drawings are objected to under 37 CFR 1.83(a). The drawings must show

every feature of the invention specified in the claims. Therefore, the version property,

dataset, user session, comparator must be shown or the feature(s) canceled from the

claim(s). Claim(s) recite(s) an apparatus with structure. No structures had been

showed in the drawing. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in

reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next

Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The phrase "said user" renders the claim(s) indefinite

because how can the user couple to database via a publicly accessible digital data

communication network. The user can use, control something, but user cannot couple

to some thing.

Claim 4 recites the limitation "said user" in line 2. There is insufficient antecedent

basis for this limitation in the claim.

Claim Rejections - 35 USC 101

4.   35 U.S.C. 101 reads as follows:

 Whoever invents or discovers any new and useful process, machine,

manufacture, or composition of matter or any new and useful improvement thereof, may

obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 1-21 are rejected under 35 U.S.C. 101 because the claims are directed to

a non-statutory subject matter, specifically, the claims are not directed towards the final

result that is "useful, tangible and concrete".

(See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result and State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

(Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility
<http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiiibab.7440&p=http%3A%2F%2F
www.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognotice%2Fguid
elines101_20051026.pdf>)

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

What is the practical application?

What is the result?

What is final result that is concrete, useful and tangible?

As in claims 1, 6, and 21, *An apparatus* does not produce a useful, concrete and tangible result as set forth in 2106 (IV)(B)(2)(b)(ii), e.g., *an update facility which updates said version list from said data base if said comparator finds said assumed version property does not equal said version property* (in claim 1, line 8) are not a useful, concrete and tangible result because an apparatus does not provide useful as *an update facility which updates said version list* is still unknown if *said comparator does not find said assumed version property does not equal said version property.*

With respect to claim 6, *the method of maintaining synchronization of dataset object properties within a system permitting a plurality of instances of a given object*

does not produce a useful, concrete and tangible result as set forth in 2106

(IV)(B)(2)(b)(ii), e.g. *updating said version list from said data base if said comparing*

step determines that said assumed version property is not the same as said version

property is not a tangible result because *updating said version list from said data base if*

said comparing step determines that said assumed version property is not the same as

said version property is not being used in the method of *maintaining synchronization of*

dataset object properties within a system permitting a plurality of instances of a given

object (what is being synchronization). The claim invention does not produce a useful

because the process does not meet the requirement as recited in the preamble, e.g.,

maintaining synchronization of data set.

With respect to claim 11, and 16, because the "practical application, result,

concrete, useful and tangible" limitations are not claimed in Applicant's claims,

Examiner believes that the above listed claims are nonstatutory.

The claims 2-5, 7-10, 12-15 and 17- 20 depend claims 1, 6, 11 and 16, so claims

2-5, 7-10, 12-15 and 17- 20 are nonstatutory.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-7, 11-13, 16-18 and 21 are rejected under 35 U. S. C. § 102 (b) as being anticipated by Saether et al. (U.S. Pub. No. 2001/0042073).

With respect to claims 1, 6, 11-12, 16-17 and 21, as best underdressed, Saether et al. discloses an apparatus and a method of maintaining synchronization of dataset object properties (see abstract) within a system permitting a plurality of instances of a given object comprising: storing a version property (files, names and size, files, store content serve) within a data base containing said dataset object (see paragraph 0008,0009, 0085); preparing a version list (delivery list) (see 0032) associated with a user session containing an assumed version property (current version)(see figs. 1-6); requesting access to said dataset object from said user session (user)(see 0035, 0038,claim 8); comparing said assumed version property (current version) to said version property (see 0049-0050); and updating said version list from said data base if said comparing step determines that said assumed version property is not the same as said version property (see 0049-0067).

With respect to claims 2, 7, Saether et al. discloses a javascript object (see 0084).

With respect to claims 3, Saether et al. discloses plurality of data objects has a separate version property associated therewith (0085 or abstract).

With respect to claims 4-5, 9-10, 13,18, Saether et al. discloses user session (110)) is responsively coupled to said database via a publicly accessible digital data

communication network (see fig. 1) and version properties is stored within said

database (server)(see fig. 1).

3.   Claims 1-7, 9-13, 16-18 and 21 are rejected under 35 U. S. C. § 102 (e) as being

anticipated by Lees et al. (U.S. Pub. No. 2006/0184589).

With respect to claims 1, 6, 11-12, 16-17 and 21, as best underdressed, Lees et

al. discloses an apparatus and a method of maintaining synchronization of dataset

object properties within a system permitting a plurality of instances of a given object

comprising: storing a version property (attributes) within a data base containing said

dataset object (see fig. 4); preparing a version list (attribute list) (see 0050) associated

with a user session containing an assumed version property; requesting access to said

dataset object from said user session (i.e. administrated updating)(see 0020);

comparing said assumed version property to said version property (see 0089 or fig. 12);

and updating said version list from said data base if said comparing step determines

that said assumed version property is not the same as said version property (see fig.

12).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-10, 14-15, 19-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Saether et al. (U.S. Pub. No. 2001/0042073) in view of Applicant

Admitted Prior Art (AAPA).

With respect to claims 8, 14-15, 19-20, Saether et al. discloses all limitations of

claimed invention recited in claims 6, 11 and 16 except for version list is stored within a

first memory which is faster than a second memory wherein data base is stored and

Mapper data base management system. However, AAPA discloses a first memory

which is faster than a second memory wherein data base is stored and Mapper data

base management system (see page 2-3). It would have been obvious at the time the

invention was made to a person having ordinary skill in the art to modify Saether et al.'s

system by using the Mapper data base management system structure in order to have

data base management system in an efficient multi-user environment for the stated

purpose has been well known in the art as evidenced by teaching of AAPA (see first

paragraph, page 2).

With respect to claims 9-10, Saether et al. discloses user session (110)) is

responsively coupled to said database via a publicly accessible digital data

communication network (see fig. 1) and version properties is stored within said

database (server)(see fig. 1).

Response to Arguments

5.   Applicant's arguments filed on 02/21/2007 have been fully considered but they

are not persuasive. Applicant made the following arguments:

a. "The Examiner has objected to the drawings as failing to show the claimed

"version property", "dataset", "user session", and "comparator" elements. With

regard to the claimed "version property", the Examiner is respectfully directed to

Fig. 13 and corresponding description in Applicants' specification at page 32, Fig.

9 provides the reader with a "sample dataset" as indicated at page 27, line 1.",

paragraph 10, third paragraph.

b. "Claims 1-21 have been rejected under 35 U.S. C. 101. In response thereto,

independent claims 1, 6, 11, 16 and 21 have been amended as suggested by the

Examiner" page 11 third paragraphs.

c. "This basic difference in purpose and objective of Saether and Applicants

results in substantial differences in structure as one might suspect. As a result,

Saether has no "dataset", "dataset object", "JavaScript object", or "JavaScript

dataset object" as claimed. Therefore, to make his rejections, the Examiner

improperly paraphrases Applicants' claims rather than addressing the actual

claim language utilized by Applicants. This is apparent by addressing Applicants'

invention as actually claimed" page 13, second paragraph.

d. " The second claim element is "a version property associated with one of with

plurality of data objects"; again, because Saether does not have the claimed

element, the Examiner impermissibly paraphrases "...containing an assumed

version property (current version) (see figs. 1-6)". And again, the Examiner cites

copious amounts of material (i.e., Figs. 1-6 of 7), no portion of with disclosing the

claimed "plurality of data objects" or the claimed "version property associated"

therewith. This is to be expected, because Saether is concerted with software development and maintenance rather than database development and maintenance." Page 14, first paragraph.

e. "The third claimed element is "a session which generates a request involving access to said one of said plurality of data objects". Having no "plurality of data objects", Saether cannot have the claimed "session which generates a request involving access" thereto. Therefore, the Examiner again improperly paraphrases the claim stating: "requesting access to said dataset object from said user session". And again the Examiner cites extensive materials (i.e, paragraphs 0035 and 0038, along with claim 8?) which are totally unrelated to Applicants' claimed element or the Examiner's paraphrase of Applicants' claimed element", page 14, second paragraph.

f. "The fourth claimed element is limited by the claimed "version list" associated with the claimed "session", it cannot have claimed "version list" associated therewith. Thus, The Examiner again attempts to paraphrase the limitation and cites irrelevant material with does not address Application's invention" page 14, last paragraph.

g. "After paraphrasing the fifth and sixth elements, the Examiner cites nearly three columns of irrelevant material. material is legally irrelevant, because it does not address Applicants' claimed invention." Page 15, second paragraph.

h. "Claim 2 and 7 depend from claims 1 and 6, ...the rejection of claims 2 and 7 is respectfully traversed.

The Applicant's argument **a** is not persuasive because the Applicant argued "version property" is directed to Fig. 13 and but the drawing fails to show where is said plurality of data objects that are associated with a version property as claim recited. Further, the claim(s) recite(s) an apparatus or system but there are no drawing to support for claim as an apparatus or the system.

The Applicant's argument **b** is not persuasive because the issues the 101 are still remain. The Update facility with updates said version list is still unknown if said comparing means finds said assumed version property does not equal said version property. Further, claims 1, 11 and 16 recites an apparatus or system, however the components of an apparatus or the system are merely software per se. A system claims much recite physical structure thus enabling it to be properly categorized in one of the statutory categories of invention. Since the components of an apparatus or the system claims 1, 11 and 16 are software per se and do not contain any physical components, the systems cannot be categorized in one of the statutory categories of invention and is thus nonstatutory.

The Applicant's arguments **c** is not persuasive because although the claims are interpreted in light of the specification limitations from the specification are not read in the claims. See *In re Van Genuns, 988 F. ed. 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)*. The Examiner interprets the claim in broadest term. Saether discloses dataset object, JavaScript object or JavaScript dataset object because Saether discloses the JavaScript (0084). The JavaScript always comes with the environment Object oriented

so it is inherent that Saether discloses JavaScript Object, the data presents as object.

Also, Saether disclose the database (0048) (i.e. "database"(0048) working in the

JavaScript's environment) so this is the dataset.

    The Applicant's arguments **d** is not persuasive because in the broadest

interpreted claim, Saether discloses "a pervious version of the set of source

files...retrieving each archived object associated with the pervious version of the set of

source files form the repository associated with the global server" (0009) so Saether

disclose "plurality of data object" (object associated with previous version)(the data

represents object). The plurality of data object is the plurality of source file. The claims

do not require "for database development and maintenance". What is the different

between the database development and maintenance and software development? The

claims need recites the limitation that support for the database development and

maintenance.

    The Applicant's arguments **e** is not persuasive Saether discloses "the server

array controller 105a manages access to the information, e.g., content and applications,

on the content server" (0038). The session (i.e., "controller 105a"), which generates a

request (i.e., "a server array controller manager a pool of redundant content servers to

provide access to requested resources" (0038)) involving access to said one of said

plurality of data object (i.e., "resource"(0038)). Saether discloses all limitation of claimed

invention.

The Applicant's arguments **f** is not persuasive because the claim(s) are (is) interpreted with broadest means. The Examiner shows all limitation with respect to the claimed invention. For particular, Saether discloses a version list (i.e., "the version delivery list" (0032)) associated with said session (i.e., "a server array controller manager" (0038)) having assumed version property (i.e., "current version" (0032)). Further, although the claims are interpreted in light of the specification limitations from the specification are not read in the claims. See *In re Van Genuns, 988 F. ed. 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)*.

The Applicant's arguments **g** is not persuasive because the Applicant fails to point out which limitations that Saether does not teaches instead the Applicant's argues the reference is irrelevant material. The reference is proper and relevant material. Further, Saetehr discloses comparing means (i.e., "comparing the name, time stamp and size of each source file on each source server to the current version" (0049)) responsively coupled to said data base (i.e. " the primary global server queries a database" (0048)) which compares for comparing said assumed version property (i.e., "current version" (0049) with said version property; an update facility which updates (i.e., "where the Primary global server generates version delivery list and list of secondary global sever and their respective path" (0054), "the version delivery list indicates the current version, however, it should be appreciated that this list could indicate a previous version of the set of source files" or "where the Primary global server and Secondary global server build a content update container for each local content server that includes that actual file data" (0058)) said version list (i.e., "delivery list"

(0057)) from said data base if said comparator comparing means finds said assumed

version property does not equal said version property (i.e., "comparing the name, time

stamp and size of each source file on each source server to the current version"

(0049)).

The Applicant's arguments **h** is not persuasive because Saether discloses

JavaScript (0084) and in the JavaScript, the object oriented environment, so Saether

discloses JavaScript object and object represents the data. The claims do not recites

any thing "database development and maintenance". The Applicant's argument about

the claim 3, see response d above.

The Applicant's arguments about the claims 4-5, 13 and 18 are not persuasive

because Saether discloses "user"/"requesting means" or database (see response

above).

The Applicant's arguments about the claims and 8-10 are not persuasive

because the rejection of claim 9-10 are reject under Saether et al. (U.S. Pub. No.

2001/0042073) in view of Applicant Admitted Prior Art (AAPA).

The Applicant's arguments about the lee et al. rejection are not persuasive

because the Applicant fails to show limitations of claimed invention that Lee that does

not teach in Lee's reference instead the Applicant argues Lee is irrelevant material.

The Applicant's argument about the rejection 103 is not persuasive because

AAPA disclose on page 2, as "the BIS" data base manager utilized various predefined

high level instruction whereby the data base use may manipulate" that means AAPA

discloses various level of speed of access memory. Saether teaches the version list in claim 1.
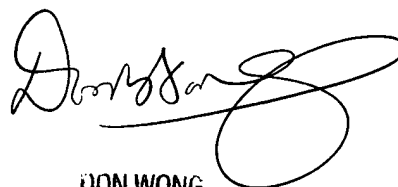
Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Vy whose telephone number is 571-2721954. The examiner can normally be reached on 8.30am - 5.30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Hung T. Vy
Art Unit 2163
April 2, 2007.